

ESTTA Tracking number: **ESTTA672286**

Filing date: **05/14/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91203192
Party	Plaintiff Beats Electronics, LLC
Correspondence Address	MICHAEL G KELBER NEAL GERBER & EISENBERG LLP TWO NORTH LaSALLE STREET , SUITE 1700 CHICAGO, IL 60602 UNITED STATES mkelber@ngelaw.com, knye@ngelaw.com, docketmail@ngelaw.com, afuelleman@ngelaw.com, fwestbrown@ngelaw.com, beatsusopps@ngelaw.com
Submission	Motion to Extend
Filer's Name	Katherine Dennis Nye
Filer's e-mail	mkelber@ngelaw.com, knye@ngelaw.com, afuelleman@ngelaw.com, fwestbrown@ngelaw.com, ecfdocket@ngelaw.com
Signature	/Katherine Dennis Nye/
Date	05/14/2015
Attachments	#21264273v1 - _URBAN BEATZ 30 Day Extension_.pdf(13206 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

BEATS ELECTRONICS, LLC

Opposer,

v.

MERKURY INNOVATIONS, LLC

Applicant.

Opposition No. 91203192

CONSENTED MOTION TO EXTEND

Pursuant to Rule 509 of the Trademark Trial and Appeal Board Manual of Practice and 37 C.F.R. § 2.120, Opposer, Beats Electronics, LLC, with the consent of Applicant, Merkury Innovations, LLC., hereby moves the Board for an Order extending the case schedule in these proceedings for a period of thirty (60) days pending the resolution of certain discovery disputes between the parties and to allow time for the exchange of supplemental discovery responses and scheduling of further depositions. In support of this Motion, Opposer states:

1. During the course of these proceedings, Opposer and Applicant have spent considerable time and effort towards completion of discovery. Specifically, Opposer and Applicant have exchanged initial disclosures, first sets of written discovery requests and responses and propounded document production, and have each completed 30(b)(6) depositions.

2. In addition, on February 17, 2014, Opposer served supplemental discovery requests including Requests for Admission, Requests for the Production of Documents and Interrogatory on Applicant, which remain outstanding.

3. Opposer and Applicant likewise exchanged expert disclosures pursuant to the Board's scheduling order. The parties each produced an expert report and have deposed one another's experts.

4. The Parties efforts described in Paragraphs 1-3 demonstrate Opposer's and Applicant's diligent, ongoing efforts to move these proceedings forward, towards resolution.

5. Throughout the course of the discovery period, and during suspensions ordered over the last year, the parties have discussed settlement, exchanging multiple settlement proposals. Ultimately, at the end of the last suspension period, these discussions proved unfruitful, and the parties have accordingly resumed their discovery efforts.

6. Specifically, when proceedings resumed after the conclusion of the last settlement period, the parties (1) exchanged supplemental document production, (2) re-noticed depositions of Applicant's employees Steven Levy and Ki Kang, previously noticed on May 7, 2014, (3) served new deposition notices of an additional representative of Opposer pursuant to Rule 30(b)(6) and Andre Young, (4) have been coordinating schedules to take the depositions, and (5) and based on disagreements relating to the scope of this pending discovery, conducted a meet and confer teleconference.

7. The parties currently disagree regarding the necessity and propriety of certain of the noticed depositions, but believe they may be able to resolve this disagreement. In an effort to avoid involving the Board in an unnecessary discovery dispute, or at least to narrow the issues that the parties need to bring before the Board, the parties hereby request additional time.

WHEREFORE, Opposer respectfully requests that the Board extend the case schedule deadlines in this Opposition for a period of thirty (30) days, as set forth below or as otherwise appropriate:

Discovery Closes	June 18, 2015
Plaintiff's Pretrial Disclosures	August 2, 2015
Plaintiff's 30-day Trial Period Ends	September 15, 2015
Defendant/Counterclaim Plaintiff's Pretrial Disclosures	September 30, 2015
30-day Trial Period for Defendant/Counterclaim Plaintiff Ends	November 15, 2015
Counterclaim Defendants & Plaintiff's Rebuttal Disclosures Due	November 30, 2015
30-day Trial Period for Counterclaim Defendant & Rebuttal as Plaintiff Ends	January 14, 2016
Counterclaim Plaintiff's Rebuttal Disclosures Due	January 29, 2016
15-day Rebuttal Period for Counterclaim Plaintiff Ends	February 28, 2016
Brief for plaintiff due	April 28, 2016
Brief for defendant and plaintiff in the counterclaim due	May 27, 2016
Brief for defendant in the counterclaim and reply brief, if any, for plaintiff due	June 27, 2016
Reply brief, if any, for plaintiff in the counterclaim due	July 11, 2016

Respectfully submitted,

Date: May 14, 2015

/Katherine Dennis Nye/
 One of the Attorneys for Opposer,
 Beats Electronics, LLC

Michael G. Kelber
 Katherine Dennis Nye
 Neal, Gerber & Eisenberg LLP
 2 N. LaSalle Street, Suite 1700
 Chicago, Illinois 60602
 312.269.8000

CERTIFICATE OF SERVICE

I, Katherine Dennis Nye, state that I served a copy of the foregoing *Consented Motion to Extend* via First Class Mail, U.S. postage prepaid, upon counsel for Applicant:

Anthony F. Lo Cicero
Marc J. Jason
Amster, Rothstein & Ebenstein LLP
90 Park Avenue
New York, NY 10016

on this 14th day of May, 2015.

/ Katherine Dennis Nye/
Katherine Dennis Nye

21264273.1